

## AMHERST PLANNING BOARD

Wednesday, December 21, 2016 – 7:00 PM

Town Room, Town Hall

### MINUTES

**PRESENT:** Stephen Schreiber, Chair, Greg Stutsman, Rob Crowner, Christine Gray-Mullen, Jack Jemsek, Michael Birtwistle, Maria Chao and Richard Roznoy

**ABSENT:** Pari Riahi

**STAFF:** Christine Brestrup, Planning Director

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Mr. Schreiber opened the meeting at 7:00 PM.

#### I. MINUTES

There were no Minutes available for review. It was not yet time for the first public hearing so the Board turned to New Business.

#### VI. NEW BUSINESS

A. PVPC Letter dated November 4, 2016 – Technical Assistance Available for Municipal Sustainability Strategies

The Board discussed various options for seeking technical assistance from PVPC. There are two types of technical assistance offered by PVPC:

- DLTA – Direct Local Technical Assistance
- UPWP – Unified Planning Work Program assistance

Among the topics that the Board discussed were the following:

- Facilitating public forums on planning for the Downtown and B-L zoning district areas
- Developing and updating the Subdivision Regulations
- Continued assistance with the regional bike share program
- Developing regulations to deal with Recreational Marijuana

After discussion the Board decided by consensus to request assistance to facilitate public forums on planning for the Downtown and surrounding B-L zoning districts.

#### II. PUBLIC HEARING – SITE PLAN REVIEW

**SPR2017-00007 – North Pleasant Street (adjacent to North Amherst Community Farm) – Pioneer Valley Habitat for Humanity**

Request Site Plan Review approval to construct an affordable duplex, under Section 3.3212 of the Zoning Bylaw, (Map 5C/Parcel 28, R-N zoning district)

Mr. Schreiber read the preamble and opened the public hearing. Mr. Crowner recused himself and left the room.

Megan McDonough, Executive Director of Pioneer Valley Habitat for Humanity (PVHH), presented the application. She was accompanied by Bruce Coldham, architect for the project and Chair of the Board of Directors of North Amherst Community Farm, the abutter to the north. Also present were the construction supervisor for the project and construction volunteers as well as members of the Board of Directors of the Amherst Community Land Trust [Ken Rosenthal, Joan Burgess and Maurianne Adams].

Ms. McDonough presented a slide show about Habitat and about the project.

Amherst Community Land Trust (ACLT) will continue to own the land that the new duplex will sit upon and lease it to the future homeowners. PVHH will build the homes, finance the initial purchase of the homes, and select the initial homeowners. ACLT will have a 99 year lease with the homeowners.

The community land trust model has been used as a method for providing affordable housing across the country, including on Cape Cod.

Ms. McDonough presented a perspective drawing of the proposed duplex, showing the view from North Pleasant Street. There will be a one-story unit in the rear and a two-story unit in the front of the site. Each unit will have an attached shed to store bicycles and lawnmowers.

Ms. McDonough showed a plan of the site, showing the “dumbbell shaped” property, with a square along North Pleasant Street, a “dog-leg” and a smaller square in the rear. The house is to be built in the large square portion of the property along North Pleasant Street. The farmhouse for the North Amherst Community Farm lies to the north and there is a single-family house to the south. The entrance drive will be across from Pufton Village apartments.

The site originally had a storm drain line running from southeast to northwest across the property to drain the wetland to the east. The storm drain line has been relocated to the north, onto the NACF property.

The site is relatively flat and drains gently towards the northwest.

The site will have one driveway entering off the street, with individual parking lots (each containing two parking spaces) and a path to the front door of each unit. Drainage swales will bring the stormwater towards the front of the site away from the house. The site plan shows the connection to sewer and water lines in North Pleasant Street. Each unit will have its own trash storage enclosure.

The proposed dwelling units are more than 180 feet from active farmland, in accordance with the Zoning Bylaw requirements for land in the Farmland Conservation zoning district, which requires a 150 foot buffer between the building and active farmland. This is shown on a plan showing the location of the structure with respect to active farmland.

Ms. McDonough presented photographs of the site, including photos of adjacent farmland, wetland and backland.

The units will be visitable, with a “zero-step” entrance and an accessible bathroom. Each unit will have three bedrooms and 1 ½ bathrooms. Ms. McDonough presented floor plans of both units and photographs of the materials that will be used for the siding, windows and doors. Elevations of the rear of the house were also presented. Doors will have canopies over them.

Ms. McDonough presented photographs of typical lighting fixtures and noted that the exterior lighting will be low-watt LED fixtures to illuminate the walk to the house from the parking. All lighting will be downcast. Mr. Coldham noted that recessed lights may be used for the porches.

The driveway, parking areas and pathways will be TRG (trap rock gravel) and the entrance drive will have a 20 foot paved apron at the street.

In terms of construction logistics, volunteers’ cars will be parked on site and at the farm next door. PVHH will build sheds to store equipment. A temporary fence will be installed for safety and to cordon off open trenches. Trash enclosures will be constructed for each unit.

A temporary construction sign will be installed.

There was a site visit on Tuesday, December 20<sup>th</sup>. Board members reviewed the Site Visit Report. In response to a question about ownership Ms. McDonough noted that the duplex will be built on a single lot, owned by ACLT and that the land will be leased to the homeowners. There will not be a condominium association. The homeowners' rights and responsibilities will be enumerated in the lease with ACLT.

Mr. Jemsek asked about the wetland. Ms. McDonough reported that PVHH had gone to the Conservation Commission and had gotten permission to move the drain. A Request for Determination had been filed with the Commission. A "no-disturb" zone was delineated on the plan based on the location of the existing "windrow". A stone wall will be constructed.

Ms. McDonough explained that there will be a local action unit application to DHCD and that the equivalent of a deed restriction will be put into the attachment to the lease. The deed-restriction equivalent for affordability will run with the land.

The Board asked questions about the use of TRG for the driveway and whether consideration had been given to the use of asphalt.

Ms. McDonough stated that asphalt is more expensive, but PVHH will consider its use. However, PVHH wanted to "leave the door open" to the use of TRG.

The Board asked whether PVHH had received any input from the abutter to the south, particularly about landscaping or fencing.

Ms. McDonough stated that PVHH had held an informal neighborhood meeting on site, but that the abutter to the south had not attended. At the informal meeting the site plan was presented and there was discussion about trees that were proposed for removal.

No landscape plan has been submitted, but there are notes about landscaping on the site plan, indicating that some large trees will be removed and that some shrubs will remain. The disturbed areas will be loamed and seeded.

The Board asked about the income level that will be served by the new homes.

Ms. McDonough stated that the initial homeowners would be chosen based on an income level at 60% or below of AMI (Area Median Income). In the future there will be a deed-restriction equivalent (a lease restriction on the land) that will require that future homeowners' incomes be at or below 80% of AMI.

Mr. Stutsman reported that the Housing and Sheltering Committee, of which he is Co-chair, supports this project.

There was no public comment.

Mr. Stutsman MOVED to close the public hearing, to approve the Site Plan Review application with waivers as requested and conditions as discussed and to find that the proposal meets the relevant criteria of Section 11.24 of the Zoning Bylaw. Mr. Birtwistle seconded.

Mr. Roznoy recommended amending the motion to include a condition that a Landscape Plan be submitted prior to the issuance of a Certificate of Occupancy.

Mr. Stutsman accepted the amendment to his motion and Mr. Birtwistle seconded. The vote was 7-0-0 (Crownor recused).

#### Waivers

- Site Plan Review application fee (\$225)
- Sign Plan
- Traffic Impact Statement

Conditions

1. Landscape Plan

- a. A Landscape Plan showing proposed trees and shrubs shall be submitted to the Planning Department for review and approval by Planning Department staff prior to the issuance of a Certificate of Occupancy. The plant list shall include appropriate native plants.
- b. Landscaping shall be installed in accordance with the Landscape Plan and, once installed, shall be continually maintained. All disturbed areas shall be loamed and seeded, unless otherwise specified.

2. Lighting

All exterior lighting shall be dark sky compliant. Exterior lighting shall be downcast, shielded and shall not shine onto adjacent properties or streets.

3. Management

The property shall be managed in accordance with the Management Plan submitted as part of this application.

4. Driveway

The first 20 feet of the driveway (the driveway apron) shall be paved with asphalt.

Mr. Jemsek left the meeting.

**III. RECOMMENDATIONS TO ZBA** – Planning Board discussion and recommendations to the Zoning Board of Appeals on Beacon Communities Comprehensive Permit application (ZBA FY2017-00007) for mixed-use development under M.G.L. Chapter 40B

Mr. Schreiber introduced the topic and noted that the Board had received a draft of its letter to the ZBA, based on the discussion at the last Planning Board meeting [on December 7<sup>th</sup>].

The Board noted that Darcy Jameson of Beacon was present, along with Mollye Lockwood of W.D. Cowsls.

Ms. Brestrup reported that the two buildings (the existing Trolley Barn and the proposed Building A1) would be 68 feet apart, based on a 50 foot right-of-way, a 15 foot setback for the Trolley Barn and a 3 foot setback for the proposed Building A1. At the meeting on December 7<sup>th</sup> a Board member had reported the distance differently. Ms. Brestrup also reported that there was a new and expanded design for the play area, which was presented to the ZBA on December 8<sup>th</sup>. The Planning Board had received copies of the new play area design prior to this meeting.

The Board discussed its recommendations as outlined in the draft letter to the ZBA.

The Board discussed item “k” which had been drafted in an attempt to keep minor reviews of signs, façade changes and management plans from coming to the Planning Board for approval. After discussion the Board decided to delete this item, with the understanding that any future review of signs, façade changes, management plans, etc. would be directed to the ZBA, which will have jurisdiction over this project going forward.

Mr. Schreiber noted that there had been a lot of discussion about the height of the buildings. He noted that height is a perplexing issue for this project for a number of reasons, including the point on the ground from which the height is measured. He noted that the town had changed the way that height is measured in order to promote the use of pitched roofs. Height is no longer measured to the ridgeline, but is now measured to a point mid-way up the slope of a pitched roof. In this project pitched roofs are being proposed, to reflect the style of traditional

New England architecture. There would be a substantial reduction in height in this project if pitched roofs were not used. Mr. Schreiber noted that the existing site has existing voluminous buildings, since it had been an industrial site in the past. He also noted that there are other buildings in town that are relatively tall, including Town Hall, Clark House, Boltwood Place, Olympia Place and others.

Mr. Crouner stated that it was not his recommendation to require a lessening of the height of the buildings, but to encourage the ZBA to look carefully at the height of the roofs.

Mr. Schreiber suggested that the developer consider inhabiting the attic space as a way of mitigating height concerns.

Mr. Birtwistle stated that he considered this to be a wonderful project but that the buildings are too tall. There are reasons for dimensional requirements and he strongly recommended that the developer reduce the height of the two major building blocks and bring them within the bounds of the existing zoning regulations. If the buildings cannot be made shorter, he will vote against recommending this project. A way needs to be found to build what the town needs within the Bylaw requirements. He would be in favor of this project at a more reasonable height.

Ms. Gray-Mullen encouraged the Board to look at the spaces in which the tenants will live and consider that the ceiling heights are generous (with the floor to floor distance being 10'-8"). This will give the units a nice feel. If the height of the ceilings is lowered the dwelling units will be less appealing. On the other hand, the height of the roofs was designed to make the buildings more attractive from the exterior.

Mr. Roznoy expressed support for the project and noted that the Planning Board was reviewing the project to provide recommendations to the ZBA and that the Planning Board was not the permit-granting authority in this case. Based on the ZBA's authority under the Comprehensive Permit process he suggested the following wording with regard to the recommendation on height – that the ZBA “consider and look carefully at the height of the buildings and the size of the buildings overall”. Mr. Roznoy concluded that the current design provides a comprehensive and complete approach to doing a project like this.

Mr. Stutsman agreed with this approach regarding height of buildings and noted that the developers had come a long way in the design of this project, responding to comments by moving the proposed Building B back from Montague Road and lessening the setback of Building A from Cows Road. He further noted that Beacon had partnered with the town on Rolling Green. Mr. Stutsman recommended Mr. Roznoy's suggestion regarding height of the buildings and stated that the height as proposed is now harmonious.

The Board discussed the heights of different buildings around town, including Clark House, Olympia Place and Boltwood Place.

Mr. Roznoy MOVED that the wording of the recommendation [item “3. i” in the list of recommendations] regarding height be to “consider looking carefully at the height of the tallest building and looking carefully at the height of the buildings overall”. Mr. Stutsman seconded.

There was further discussion about the exact wording.

The vote was 7-1-0 (Birtwistle opposed).

Ms. Chao stated that she appreciated how much of the draft letter was devoted to the issues of parking and landscaping. She noted that the green space and place for children to play were surrounded by a sea of parking. She supported recommendation # 3.c which talked about on-street parking and recommended that a phrase be added that the purpose of the on-street parking would be “to reduce by the same number the on-site parking”.

Mr. Jemsek proposed substituting some of the paved area with lawn area and using it as overflow parking. After discussion the Board decided that other examples of lawn used for parking (such as at Hickory Ridge Golf Club) were cases where lawn parking was “event-based”. That would not be true in the case of North Square, where the need for parking was on a day-to-day basis. Mr. Schreiber suggested that the parking lot at Cows Building Supply could be used for overflow event parking, if needed in the case of North Square.

Mr. Crouner suggested that if the number of parking spaces were reduced, that the parking spaces be replaced with places for bicycle parking.

After discussion, the Board decided to leave recommendation #3.c as drafted. If the town and Beacon are successful in providing on-street parking along Cows Road, the issue of on-site parking may be revisited in the future.

Ms. Jameson offered some remarks about the issue of parking. She noted that Beacon had seen the original Planning Board recommendations. Beacon had talked with people in the community about smart growth, and creating a compact, walkable environment. Beacon has put forth a proposal that is affordable, provides more commercial space, is financially feasible and meets the goals of the community. There is a push and pull between height and open space and Beacon has a finite piece of land available to it. While Beacon respects the goals of reducing parking, a project that is “under-parked” sets itself up to fail. Lenders want to see that there is adequate parking to support the proposed uses. There will be indoor rooms as well as outdoor bike racks for storing bikes. There is a balance between the aesthetic of what a project looks like when you drive in and the marketability of apartments. While Beacon respects the Planning Board’s recommendations “deviating too much from the proposal will be challenging” she said. If parking is eventually installed along Cows Road, it will be in addition to the parking that is provided on site. North Square is proposed to be a mixed-use, mixed-income, compact, walkable neighborhood. People need cars for the long winters and dark nights and the project needs scale to be viable.

Mr. Jemsek stated that he is strongly in favor of the project.

Mr. Stutsman MOVED that the Planning Board submit its recommendations to the ZBA with the amendment to item “i” as discussed and the deletion of item “k”. Ms. Gray-Mullen seconded and the vote was 7-1-0 (Birtwistle opposed).

#### **IV. PLANNING & ZONING**

A. Zoning Subcommittee Report – Mr. Crouner presented the ZSC Report. There is unfinished business regarding Inclusionary Zoning. The Bylaw is subject to multiple interpretations. The Planning Board has taken a position on Inclusionary Zoning, but some members of the community have wanted the Board to take a different position. The Planning Board proposed changes to the Bylaw [which did not pass] and has put in place changes to the PB Rules and Regulations. The Planning Board will need to schedule a public hearing to delete the sections of the Rules and Regulations dealing with Inclusionary Zoning. These sections are not needed now since the amendment to the Zoning Bylaw was defeated.

The Planning Board could take a definitive stand on the issue of interpretation of Inclusionary Zoning, but it won’t really matter until the next project comes along. The Planning Board could make a statement about its interpretation or it can just keep doing what it has been doing.

The ZSC doesn’t want to work on another attempt and doesn’t see a path to approval of an amendment to the Inclusionary Zoning section of the Bylaw. There are other things

that are pressing and need attention. Among them are: recreational marijuana, town center planning and zoning, FPC rezoning. The ZSC has a lot of work ahead and there are better ways to create affordable housing.

Mr. Roznoy recommended not making a statement about the interpretation but continuing with the pattern of practice with the Bylaw as it currently exists. Further discussion is clouding the issue, he said.

**B.** Inclusionary Zoning – Letters from John Fox and Richard Roznoy regarding interpretation of Zoning Bylaw Article 15, Inclusionary Zoning

Ken Rosenthal of Sunset Avenue spoke on behalf of John Fox (who is out of town) and himself. Mr. Rosenthal submitted a letter and requested that staff distribute it to the Planning Board members. He read from his letter. He noted that the Planning Board Chair had a recent exchange of email with John Fox on the issue of Inclusionary Zoning. It is wrong to interpret Inclusionary Zoning to be required only when there is a Special Permit for use, he said. The plain meaning of the Bylaw would indicate that Inclusionary Zoning is required for projects that require any type of Special Permit. He read the purpose of Article 15, Section 15.10 of the Bylaw, emphasizing the phrase “requiring a Special Permit and resulting in additional new dwelling units”. Mr. Rosenthal referred to an email from Attorney Joel Bard on this topic and quoted from the Bard email. He asserted that the Planning Board had no authority for its interpretation, stating that the meaning is clear and the language is plain and simple.

Mr. Schreiber responded noting that Mr. Fox has challenged the Planning Board’s interpretation. He encouraged people to look at the original intent of Article 15, and referred to the Planning Board report to Town Meeting in 2005. The Report is silent on a lot of issues regarding Special Permits, but it enumerates development methods that require Special Permits for use. Mr. Schreiber noted that Special Permits are also required for live music, excavation and filling and signs. Special Permits are required for a one foot reduction in setback. He agreed that the Bylaw is “imperfectly written” but the intent is clear and the Planning Board has been consistent in its interpretation.

Mr. Roznoy acknowledged that the language of the Bylaw is not clear and unambiguous but that the Board is doing the proper thing by its interpretation.

Mr. Birtwistle disagreed with the Planning Board’s interpretation, and was persuaded by Mr. Fox and Mr. Rosenthal’s reading of the planning language.

There was further discussion about the interpretation of the Inclusionary Zoning section of the Zoning Bylaw.

Mr. Stutsman noted that there were very few zoning amendments proposed at the Annual Town Meeting in 2005, but that there was an amendment creating a new type of development method, the Open Space Community Development, which required a Planning Board Special Permit for the use. For that reason, among others, Mr. Stutsman was convinced that the meaning of the Inclusionary Zoning section of the Bylaw was clear and that it referred to Special Permits for use.

The ZSC is not motivated to work on this issue now. The ZSC believes that the underlying issues are important, but that there are other measures to provide affordable housing. The ZSC is committed to looking at planning for the downtown.

Maurianne Adams focused on the words in Section 15.10 of the Bylaw “and resulting in additional new dwelling units”, connecting the idea of a Special Permit to an increase in size of a development to the point where new units were the result of the

increase in size. She encouraged the Board members to consider these words when interpreting the Inclusionary Zoning Bylaw.

Mr. Schreiber asked how many units would be the result of a one foot encroachment on a setback requirement, noting that it is difficult to measure the number of units that would result from a modification to a dimensional requirement.

**C. Planning Board Rules and Regulations – Calculations for Affordable Housing**

Mr. Stutsman MOVED that the Board convene a public hearing to remove the language associated with the calculation for affordable units contained in the Planning Board Rules and Regulations. Mr. Crowner seconded. The vote was 7-0-0.

**D. Planning Issues – Mr. Stutsman stated that the Planning Board needed to spend time discussing what it wanted to get out of the upcoming forums. One goal would be to determine how to provide more housing downtown. He noted that the newly approved Municipal Modernization Act [Acts 2016, Chapter 218, “An Act Modernizing Municipal Finance and Government”] has a section whose goal is to allow/encourage workforce housing via a “workforce housing special tax assessment plan” in overlay districts. This is a new tool to provide this type of housing. It is worth looking at and Mr. Stutsman promised to send it out to Planning Board members.**

Mr. Roznoy requested that the ZSC tell the Planning Board what aspects of the Zoning Bylaw regarding the Municipal Parking District (MPD), need to be addressed. The topic of parking will be part of the forums that are being planned.

Mr. Stutsman suggested that the ZSC would request that the Downtown Parking Working Group give the ZSC and the Planning Board feedback on the MPD. This feedback could include requiring some parking for new residential development in the downtown area. As an example the requirement could be more than zero parking spaces per dwelling unit, but less than 2 spaces per DU. The requirement could offer a payment-in-lieu to satisfy parking requirements, in which a developer could pay into a municipal fund to provide municipal parking. The ZSC and the DPWG should have a dialogue.

Ms. Gray-Mullen stated that the DPWG would put this on an agenda. The DPWG had asked staff to do research on this topic.

The Board agreed that the ZSC and the DPWG or the ZSC and the Planning Board should hold a joint meeting to discuss issues related to parking.

**E. Public Comment Period – Maurianne Adams suggested a discussion about underused private parking areas.**

**VI. NEW BUSINESS**

**B. Topics not reasonably anticipated 48 hours prior to the meeting – Mr. Schreiber reported that the Select Board had sent him an inquiry about having the zoning articles first on future Town Meeting Warrants. Then people who were interested in the topics (including Planning Board members) would know when to attend. This topic was discussed at an informal meeting with a TMCC policy subgroup regarding how Planning Board articles are handled. The Board agreed by consensus that having zoning articles first would not be a problem. However, holding public hearings on zoning articles within the timeframe of Town Meeting was not practical. The Board discussed the numerous opportunities that people have to learn about and suggest amendments to the zoning amendments at Precinct meetings and Warrant Review meetings.**

The Board discussed the problems that arise when people try to amend zoning articles on the floor of Town Meeting. It is difficult to assess the scope of proposed amendments on the floor of Town Meeting.

The Board also discussed a suggestion that zoning articles be heard only in the fall. Board members agreed that this would be too restrictive.

**VII. FORM A (ANR) SUBDIVISION APPLICATIONS – none**

**VIII. UPCOMING ZBA APPLICATIONS – none**

**IX. UPCOMING SPP/SPR/SUB APPLICATIONS** – Ms. Brestrup reported that there is a new Amherst College Site Plan Review application for Marsh House, a residence hall on Lessey Street, for renovations to the building and the site. The Board will hold a public hearing in January on this application.

**X. PLANNING BOARD COMMITTEE & LIAISON REPORTS**

Pioneer Valley Planning Commission – Jack Jemsek and Christine Gray-Mullen

Community Preservation Act Committee – Pari Riahi – no report

Agricultural Commission – Stephen Schreiber – no report

Design Review Board – Michael Birtwistle reported that the DRB had met recently and had reviewed one sign.

Housing and Sheltering Committee – Greg Stutsman – no report

Zoning Subcommittee – Rob Crowner and Greg Stutsman – report previously given

UTAC (University and Town of Amherst Collaborative) – Greg Stutsman and Christine Gray-Mullen – no report

Downtown Parking Working Group – Christine Gray-Mullen and Richard Roznoy – no report

Transportation Advisory Committee – Richard Roznoy reported that the TAC had held its first meeting and was just getting organized.

**XI. REPORT OF THE CHAIR – no report**

**XII. REPORT OF STAFF – no report**

**XIII. ADJOURNMENT**

The meeting was adjourned at 9:05 PM.

Respectfully submitted:                      Approved:

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Christine M. Brestrup  
Planning Director

\_\_\_\_\_  
Stephen Schreiber, Chair

DATE: \_\_\_\_\_